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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/793,416	10/23/1997	JOHN THOMAS HARE	18872.0056	5267
25312 7590 07/31/2007 WILSONART INTERNATIONAL, INC. C/O WELSH & FLAXMAN, LLC 2000 DUKE STREET, SUITE 100 ALEXANDRIA, VA 22314			EXAMINER PALABRICA, RICARDO J	
			ART UNIT 3663	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

08/793,416

Applicant(s)

HARE, JOHN THOMAS

Examiner

Rick Palabrica

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-26 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) 30-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's 6/15/07 Amendment, which directly amended claim 20 and traversed the rejection of claims in the previous examiner's 2/15/07 Office action, is acknowledged by the current examiner.

2. Applicant argues that:

"In particular, Weinberger, although disclosing that the shield may be formed in a variety of shapes, fails to appreciate the shape ultimately disclosed and claimed in accordance with the present invention. The Examiner attempts to remedy this through the citation of Noel and Fry. However, there is nothing in Weinberger which would suggest that it may be formed into a resilient, cylindrical body in the form of a cylindrical annulus with a slit as claimed in accordance with the present invention." Underlining provided.

"Without further proof to the contrary, it is Applicant's opinion it would not be obvious to take the shield disclosed by Weinberger and form it into either the shape disclosed by Fry or the shape disclosed by Noel as such modification would require substantial engineering ingenuity not contemplated in accordance with the cited references."

The current examiner disagrees. First, as to the matter of a resilient body, Weinberger clearly discloses that his invention relates to a "flexible shield for ionizing radiation."

Second, as to the matter of a cylindrical body in the form of a cylindrical annulus with a slit, Weinberger states that the problem he is solving pertains to materials for a shield that:

"may be flexible so that they may be shaped to parts of the body and used for gloves, helmets[sic], aprons, leggings, clothing and the like. Underlining provided. See page 1, col. 1, lines 24+).

In order to form Weinberger's shield into a legging, the shield shown in his figures must inherently be configured into a cylindrical annulus to fit around a leg of the person to be protected. Additionally, the two end surfaces of this shield must lockable to one another when disposed around the leg of the person. This lockable configuration of the two ends forms a slit, as in applicant's claimed invention. Note that the claims do not preclude the cylindrical annulus form of the shield being achieved when the shield is deployed for use, as in the case described by the examiner.

Third, either one of Fry or Noel teaches different means for achieving a lockable configuration for the split ends of annular cylindrical elements. Thus, an artisan who would want to apply Weinberger's invention as a legging shield would have consulted the art where Fry and Noel belong, because they are reasonably pertinent to the problem of fastening said shield. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Thus, there is sufficient and justifiable motivation to apply the teachings in Fry and/or Noel to modify Weinberger.

An artisan would have noted in particular that the lockage arrangement in either Fig. 19 or Fig. 20 in Noel would have been advantageous to use for Weinberger's legging shield because of a configuration that facilitates sturdy, locking contact, as well as a serpentine shape for the locking ends that would enhance the shielding property of the shield.

Note further that either one of the slit configuration in Fig. 19 or Fig. 20 meets the claim limitation, "slit extending from the inner face to the outer face relative to the radius of the shield body." Applicant has not defined the specific orientation of the so-called

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radius, and there are an infinite number of orientations of the radii that can be drawn from the center of applicant's shield body. Absent such definition, the current examiner interprets the term "radii" and its orientation broadly. One can always find a radius drawn from the center of either Fig. 19 or Fig. 20 in Noel such that the slit is at an oblique angle to this selected radius.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinberger (GB 954,594) in view of either one of Noel (U.S. 4,576,846) or Fry et al. (U.S. 4,748,060).

The reasons are the same as those stated in section 6 of the previous examiner's 2/15/07 Office action, as further clarified in section 2 above, which reasons are herein incorporated.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

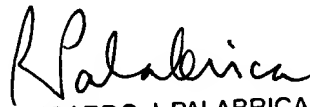
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RJP
July 24, 2007


RICARDO J. PALABRICA
PRIMARY EXAMINER